

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

ZEXI LI, HAPPY GOAT COFFEE COMPANY INC, 7983794 CANADA INC.
(c.o.b. as UNION: LOCAL 613) and GEOFFREY DEVANEY

Plaintiff

- and -

CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING,
JAMES BAUDER, BRIGITTE BELTON, DANIEL BULFORD, DALE ENNS,
CHAD EROS, CHRIS GARRAH, MIRANDA GASIOR, JOE JANSEN, JASON
LAFACE, TOM MARAZZO, RYAN MIHILEWICZ, SEAN TIESSEN,
NICHOLAS ST. LOUIS (a,k,a, @NOBODYCARIBOU), FREEDOM 2022
HUMAN RIGHTS AND FREEDOMS, JOHN DOE 1, JOHN DOE 2, JOHN
DOE 3, JOHN DOE 4, JOHN DOE 5, JOHN DOE 6, JOHN DOE 7, JOHN DOE
8, JOHN DOE 9, JOHN DOE 10, JOHN DOE 11, JOHN DOE 12, JOHN DOE
13, JOHN DOE 14, JOHN DOE 15, JOHN DOE 16, JOHN DOE 17, JOHN DOE
18, JOHN DOE 19, JOHN DOE 20, JOHN DOE 21, JOHN DOE 22, JOHN DOE
23, JOHN DOE 24, JOHN DOE 25, JOHN DOE 26, JOHN DOE 27, JOHN DOE
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38, JOHN DOE 39, JOHN DOE 40, JOHN DOE 41, JOHN DOE 42, JOHN DOE
43, JOHN DOE 44, JOHN DOE 45, JOHN DOE 46, JOHN DOE 47, JOHN DOE
48, JOHN DOE 49, JOHN DOE 50, JOHN DOE 51, JOHN DOE 52, JOHN DOE
53, JOHN DOE 54, JOHN DOE 55, JOHN DOE 56, JOHN DOE 57, JOHN DOE
58, JOHN DOE 59, JOHN DOE 60, JANE DOE 1 and JANE DOE 2

Defendants

AFFIDAVIT OF LARRY ANDRADE

I, Larry Andrade, of the City of Toronto, in the Province of Ontario, MAKE OATH AND
SAY:

1. I am a Partner in Deloitte LLP (“Deloitte Canada”) and part of the Financial Advisory group, also operating as the leader of Deloitte Canada’s National Disputes practice.

2. I have been retained by counsel for the Plaintiffs to provide the court with a preliminary estimate of the damages suffered in the above referenced proceeding. As such, have knowledge of the matters contained in this Affidavit.

Qualifications

3. I am a Chartered Business Valuator and a Fellow Chartered Professional Accountant. I received my Masters of Business Administration from the Schulich School of Business in 2002. My *curriculum vitae* is attached as **Exhibit “A”** to this affidavit.

4. I have received input from Deloitte Canada’s Economic Advisory practice in forming my preliminary estimate of the economic damages (“losses”) suffered by the Business and Employee Sub-Classes in the above referenced proceeding.

5. I have no interest, financial or otherwise, in the outcome of the litigation that is the subject of my opinion. I understand that it is my obligation to be independent as an expert witness. A copy my signed Acknowledgment of Expert’s Duty is attached as **Exhibit “B”** to this affidavit.

Scope of Work

6. In preparing my preliminary estimate, I have reviewed and relied upon various publicly available information outlined in Schedule 1 attached as **Exhibit “C”** to this affidavit.

7. As noted above, I have prepared a preliminary estimate of the damages suffered in the above referenced proceeding based on limited publicly available information. Upon receipt of additional, more detailed information, my calculations would require revision.

Mandate

8. In relation to this matter, I have been asked to assist with the Court Motion dated February 28, 2022. Specifically, I have been asked to assist with the quantification of losses pertaining to the Business and Employee Sub-Class of the above referenced proceeding¹.

9. Specifically, I have been asked to:

- (a) Provide and explain the conceptual approach to quantifying damages for the Employee and Business Sub-Classes resulting from the Freedom Convoy protests (the “Protests”) in downtown Ottawa, assuming availability of required information and adequate resourcing and time to complete the calculations.
- (b) At this stage, provide a preliminary estimate or range of losses suffered by the Business and Employee Sub-Classes resulting from the Protests, based on publicly available information.

10. I have estimated a range of losses for the Business and Employee Sub-Classes of \$150.0 million to \$210.0 million as outlined in Table 1 below. Please refer to paragraphs 26 to 64 for a detailed explanation of our calculations.

¹ We have not been asked to estimate the losses pertaining to the Resident Sub-Class.

Description	Low	High
Estimated Losses to the <u>Employee</u> Sub-Class:	\$ 105,677,215	\$ 145,616,706
Estimated Losses to the <u>Business</u> Sub-Class:	\$ 44,498,615	\$ 61,316,356
Total Losses to Employee & Business Sub-Classes:	\$ 150,175,831	\$ 206,933,061
Total Losses to Employee & Business Sub-Classes (Rounded):	\$ 150,000,000	\$ 210,000,000

Table 1 - Summary of Preliminary Estimate of Damages

Background

11. On or around January 28, 2022, hundreds of trucks arrived in downtown Ottawa as part of the Freedom Convoy 2022, in an effort to protest vaccination mandates².

12. As of January 29, 2022, approximately 400 trucks³, and an estimated range of 4,000⁴ to as high as 15,000 (on weekends) protesters converged in downtown Ottawa to mark the official launch of the Protests⁵.

13. The protesters and their vehicles remained on public streets for the duration of the period of loss, blowing the vehicle horns periodically throughout the day⁶.

² Fresh as Amended Statement of Claim, paragraph 6

³ <https://ottawa.ctvnews.ca/about-100-convoy-trucks-in-downtown-ottawa-have-children-living-inside-police-1.5772103>

⁴ <https://www.ottawapolice.ca/Modules/News/index.aspx?page=4&newsId=bed085e8-7c29-4b03-beb5-85862d682fd4>

⁵ <https://www.thestar.com/news/investigations/2022/02/22/timeline-of-the-freedom-convoy.html?rf>

⁶ Fresh as Amended Statement of Claim, paragraphs 7 and 8

14. As a result of the protestors occupying downtown Ottawa during the period of loss, businesses operating in the protest area either closed entirely, or remained open with significant losses and employees were either laid off or lost work as a result of business closures⁷.

15. The above referenced proceeding is for private and public nuisance for the serious harms and losses experienced by the residents, businesses, and workers in downtown Ottawa (the “Occupation Zone⁸”) due to the Protests. Paragraphs 44 to 46 of the Fresh as Amended Statement of Claim detail out the various subclasses impacted by the Protests:

- (a) Resident Sub-Class – representing all persons who reside within the Occupation Zone in downtown Ottawa;
- (b) Business Sub-Class – representing all businesses that operate within the Occupation Zone in downtown Ottawa and experienced business losses; and,
- (c) Employee Sub-Class – representing all persons who work as employees within the Occupation Zone in downtown Ottawa and experience wage loss.

Conceptual Damages Approach

16. The methodology in calculating the damages or losses arising from an event / incident is intended to put the injured party in the same financial position had the event or incident not

⁷ Fresh as Amended Statement of Claim, paragraphs 10 and 11

⁸ The borders of the Occupation Zone are outline in the Fresh as Amended Statement of Claim, paragraph 42 and 43

occurred. This is determined by calculating the financial position an injured party would have been in 'but for' the event / incident, less the 'actual' financial position as a result of the event / incident.

17. In a non-class action proceeding, the Business and Employee losses would be calculated by relying on accounting and business records provided by the individual or business. In a class proceeding such as this, and in the absence of class specific data provided by each class member, there are a number of other data sources that could be referred to in order to prepare a calculation of losses to the Business and Employee Sub-Classes. These include but are not limited to:

- (a) Real-time payment data – For example: credit card payment data both before and after the Protests could be used to assess the decline in business activity in the Occupation Zone during the period of loss.
- (b) People and vehicular traffic data – Obtaining this information for before and after the Protests could be used to assess the decline in business activity in the Occupation Zone during the period of loss.

18. Such data sources could be used to corroborate information obtained from class members. Alternatively, such data could be used to develop estimates of class-wide loss in the absence of information from specific class members.

Preliminary Estimate of Damages Based on Publicly Available Information – Selected Approach

19. Due to time constraints and the lack of availability of Business / Employee specific information, I have prepared a high-level preliminary estimate based on publicly available information. Upon receipt of such additional information from Businesses and Employees, our

preliminary estimates would be subject to revision. In addition, as described above, with the benefit of additional time and additional data sources, additional estimates could be prepared that would not depend on information from particular class members.

20. For the purposes of our preliminary estimate of damages, and in the absence of more detailed information, I have relied upon publicly available income-based Gross Domestic Product⁹ (“GDP”) information for Ottawa as a starting point for my estimate of losses in this matter.

21. I have excluded an estimate of public sector GDP from my analysis; however, I understand that some government employees and offices were impacted by the protest and our preliminary estimate is not inclusive of those amounts.

22. As mentioned previously, there are three subclasses as a result of the above-mentioned proceeding, two of which are considered in my preliminary estimate of losses:

- (a) Business Sub-Class; and,
- (b) Employee Sub-Class.

23. The Business Sub-Class damages are based on my estimate of lost profits as a percentage of the estimated GDP lost as a result of the Protests. The profit margin was calculated based on our analysis of the components of GDP. I note that the use of profit margin would likely understate

⁹ Per Statistics Canada, the Provincial and Territorial Gross Domestic Product (GDP) by Income measures the unduplicated value of production that sums all of the factor incomes (compensation of employees, gross operating surplus, gross mixed income and taxes) generated by this productive activity - incomes representing the returns to the labour and capital employed.

the losses of the Business Sub-Class as it does not consider the lost 'contribution' towards the continuing fixed expenses that businesses incurred but were not able to recuperate through revenues. The calculation of business losses would typically be based on contribution margin (revenues less incremental variable costs which is also equal to net profits and fixed expenses)¹⁰.

24. The Employee Sub-Class damages are based on wages that would have been earned by employees but for the Protests. To estimate the Employee Sub-Class losses, I have relied upon the percentage of annual GDP that pertains to compensation of employees (includes wages & salaries and employer's social contributions).

25. It is important to note that the estimated labour losses will be considered either losses to the Employee Sub-class (if employees did not work and were not paid) or the Business Sub-Class (if employees did go into work and were paid but the business was unable to recuperate the wages expense through revenues). Either way, they represent a loss to one of the Sub-Classes in this action resulting from the Protests.

Preliminary Estimate of Damages Based on Publicly Available Information – Calculation

26. As noted above, I have prepared a preliminary estimate of the damages suffered in the above referenced proceeding based on limited publicly available information. I have not been provided with business-specific or employee-specific data that would allow me to do a detailed calculation, and I have only had the ability to consider a limited set of publicly available materials.

¹⁰ The GDP data available does not provide a breakdown of variable or fixed costs. Instead, the GDP data reviewed includes net profit earned by corporations and unincorporated entities.

However, I have been asked to prepare this preliminary estimate of damages to assist the Court in the upcoming motion (see Table 1 below).

27. I have estimated a range of losses for the Business and Employee Sub-Classes of \$150.0 million to \$210.0 million. Please refer to Schedule 1 in **Exhibit “C”** for the detailed calculations and supplementary notes.

Description	Low	High
Estimated losses, measured as the loss of GDP (Ottawa areas impacted by protest):		
Estimate of Ottawa private sector daily GDP for 2022	\$ 190,550,498	\$ 190,550,498
Estimate of % of Ottawa businesses negatively impacted by the Protests (Loss of revenue)	8.9%	12.2%
Ottawa private sector daily GDP potentially negatively impacted by the Protests	16,875,636	23,253,588
Estimate of % of daily private sector GDP (revenue) lost by businesses negatively impacted by the Protests	50.0%	50.0%
Loss of daily private sector GDP (revenue) due to Protests	8,437,818	11,626,794
Number of days of the Protests	23	23
Total loss of private sector GDP (revenue):	194,069,810	267,416,266
Estimated Losses to the <u>Employee</u> Sub-Class:		
Labour as a % of GDP (revenue)	54%	54%
Total Employee Sub-Class Loss:	105,677,215	145,616,706
Estimated Losses to the <u>Business</u> Sub-Class:		
Profit as a % of GDP (revenue)	23%	23%
Total Business Sub-Class Loss:	44,498,615	61,316,356
Total Losses to Employee & Business Sub-Classes:	\$ 150,175,831	\$ 206,933,061
Total Losses to Employee & Business Sub-Classes (Rounded):	\$ 150,000,000	\$ 210,000,000

Table 2 – Calculation of Preliminary Estimate of Damages

28. My calculated range of Employee and Business Sub-Class losses represent less than 5% of the estimated total GDP of Ottawa¹¹.

¹¹ Dividing the calculated total losses (\$150.0 million to \$210.0 million) by the total Ottawa private sector GDP (\$190.6 million) over the period of loss (23 days) results in my calculated losses ranging from 3.4% to 4.8% of the total GDP during this period.

Ottawa Daily GDP

29. In order to prepare my estimate of the damages incurred as a result of the Protests, I have relied upon publicly available GDP information¹². Specifically, I have utilized the Ottawa GDP information as of 2018¹³ (expressed in nominal terms).

30. In order to project the Ottawa GDP to 2022, I have applied the annual year over year nominal growth rates in GDP (income based) for the province of Ontario from 2019 to 2020 to the Ottawa GDP in 2018.

31. For 2021 and 2022, I have relied upon the provincial economic forecast prepared by TD Economics which forecasts the nominal GDP growth rate in Ontario to be 9.7%. and 8.0%, respectively, which reflects the rebound experienced following the COVID-related impacts and pandemic restrictions.

32. I have then calculated a daily GDP estimate for 2022 during the period of loss based on the estimated 2022 GDP for Ottawa of approximately \$229.3 million.

33. This estimate of Ottawa's daily GDP is inclusive of government wages which should be removed from the calculation as it is our understanding that government employees were able to work from home during the Protests.

¹² In the absence of revenue information, GDP is being used as a proxy for lost revenue. GDP consists of labour, profit and taxes but excludes other business inputs. Even though GDP does not equate to revenues, it serves as a reasonable estimate of revenue losses for the purposes of my calculations.

¹³ 2018 is the most recent year that city specific GDP information is available per Statistics Canada.

34. I have calculated the share of the private sector GDP in Ontario (in 2018 based on nominal GDP by industry) to be 83.1%¹⁴.

35. I have then multiplied the 83.1% by the estimated 2022 Ottawa GDP to estimate the daily GDP of the Ottawa private sector of approximately \$190.6 million.

Percentage of Businesses Impacted by the Protests (Loss of Revenue)

36. To estimate the percentage of Ottawa businesses within the Occupation Zone that were potentially negatively impacted by the Protests, I have relied upon the publicly available Ottawa BIA Business Survey - Convoy Protest Impacts prepared by the Ottawa Coalition of Business Improvement Areas ("OCOBIA")¹⁵. Additionally, I spoke with the Executive Director of the OCOBIA regarding the BIA Survey results to further understand the conclusions presented.

37. The OCOBIA acts as a unified voice of their members to advocate and influence policies that affect BIAs and protect the interests of BIAs. The OCOBIA represents 19 BIAs within Ottawa, including more than 6,700 businesses and 120,000 employees¹⁶. I understand that the OCOBIA represents approximately 70% of the businesses in the region impacted by the Protests¹⁷.

38. The survey was sent to 11 BIAs in the Ottawa core totalling 2,100 businesses that were expected to have been impacted by the Protests¹⁸.

¹⁴ Statistics Canada. Table 36-10-0478-01 Supply and use tables, detail level, provincial and territorial (x 1,000)

¹⁵ <https://ocobia.org/ottawa-bia-business-survey-convoy-protest-impacts/>

¹⁶ <https://ocobia.org/about-ocobia/>

¹⁷ Based on our conversations with the Executive Director of the OCOBIA.

¹⁸ Based on our conversations with the Executive Director of the OCOBIA.

39. I have considered the results of this survey to estimate the percentage of Ottawa's daily GDP that was impacted by the Protests ranging from 8.9% to 12.2% as outlined in Table 3.

Description	Low	High
Number of Businesses represented by the OCOBIA (assumed to be representative of Ottawa as a whole)	6,700	6,700
# of Businesses Potentially Impacted by the Protests	1,073	1,073
% of Businesses Potentially Impacted by the Protests	16.0%	16.0%
% of Businesses That Suffered Revenue Losses - Per survey results	55.3%	76.2%
% of Ottawa Businesses Potentially Negatively Impacted by the Protests	8.9%	12.2%

Table 3 – Calculation of the Percentage of Businesses Negatively Impacted by the Protests

40. The low end of the range represents the survey results from businesses that indicate they are unable to mitigate revenue losses, and the high end of the range represents the survey results from businesses that state they have suffered a loss of revenue as a result of the Protests.

41. My analysis assumes that the OCOBIA membership and impacted businesses are representative of Ottawa businesses as a whole.

42. I understand that of the total number of surveys issued, 1,073 surveys were issued to businesses in the five BIAs within the Occupation Zone that were directly impacted by the Protests in the form of lost revenues, allocated as follows:

- (a) Bank Street BIA – 240 surveys;
- (b) Downtown Rideau BIA – 350 surveys;
- (c) Byward Market BIA – 417 surveys;
- (d) Sparks Street BIA – 51 surveys; and,

(e) Somerset Street BIA – 15 surveys¹⁹.

43. Of the 1,073 surveys issued, 241 responses were received²⁰. The survey responses included the following information:

- (a) BIA;
- (b) Business Sector (for example: food services, retail, etc.);
- (c) If the business was (1) open, (2) closed prior (ahead of event), or (3) closed during (due to arising concern);
- (d) Financially, how the Protests impacted the business (Negatively, neutral or positively);
- (e) Is the business able to recover any lost income in the future;
- (f) Where is the business' customer base located (core, neighbourhood, further);
- (g) How were the business' staff impacted by the Protests (sent home, told not to come in, were not affected, were unsafe, were obstructed from coming to work); and,
- (h) Was police intervention required.

44. Based on the survey results, the total number of impacted businesses within the Occupation Zone is approximately 16.0%²¹ of the total OCOBIA membership. It is important to note that some

¹⁹ Based on our conversations with the Executive Director of the OCOBIA.

²⁰ I was provided the individual survey responses by the Executive Director of the OCOBIA.

²¹ Calculated as 1,073 / 6,700.

of the areas most impacted by the Protests²² are not included in the OCOBIA survey and therefore, the portion of businesses impacted and the extent to which those businesses were impacted, may be underrepresented in the survey results.

45. Additionally, consideration must be given to the percentage of GDP that was lost as a result of the Protests. While some businesses fully closed, some remained open while incurring losses.

46. Per the BIA Survey, 55.3% of respondents reported they will not be able to recover or postpone the revenues lost during the protest. 76.2% of respondents reported lost revenue directly because of the protest.

47. Therefore, I have utilized a range from 55.3% to 76.2% to reflect the percentage of impacted businesses with lost revenue.

48. Multiplying the percentage of businesses potentially impacted by the percentage of impacted businesses with loss revenue, I calculate the percentage of Ottawa that was potentially negatively impacted by the Protests ranging from 8.9% to 12.2%.

49. Multiplying the range of percentages of Ottawa that was potentially negatively impacted by the Ottawa daily GDP results in the estimated total daily GDP in Ottawa that was potentially negatively impacted ranging from \$16.9 million to \$23.3 million.

²² Areas (streets) in the downtown include: Queen, Albert, Slater, Laurier, Lisgar, O'Connor, Elgin. Areas (streets) in Sandy Hill include Laurier East and Somerset East.

50. It is important to note that I have relied upon the BIA survey results as a preliminary data source for my preliminary estimate of damages. Upon receipt of more detailed information, our calculations would require revision.

Estimate of Percentage of Total Impacted GDP (Revenues) That Was Lost Due to Protests

51. Based on my judgment, I have applied a factor of 50%, as described below, to the Ottawa daily GDP potentially negatively impacted by the Protests to estimate the lost daily GDP (revenues) for only those businesses that experienced a negative impact (or revenue loss).

52. Various factors were considered in determining this adjustment of 50% that I have utilized in my calculation, including:

- (a) This estimate of Ottawa's daily GDP is inclusive of government wages which I have stripped out of my calculation. This is a conservative estimate as there is likely some municipal employees that were unable to go into work during the Protests;
- (b) Based on our review of the BIA survey responses received (241 in total), 89% of businesses within the Occupation Zone reported being negatively impacted by the Protests;
- (c) Based on our review of the BIA survey responses received (241 in total), 67% of businesses within the Occupation Zone reported being fully closed throughout the Protests;

- (d) The Rideau Centre has publicly disclosed that they were fully closed and businesses within the Centre lost revenue of approximately \$2 million per day;
- (e) Before the Protests, the economy was undergoing restrictions already as a result of the COVID-19 pandemic. Therefore, the 'but for' is a period where there were already operating restrictions in place (for example: capacity restrictions for indoor dining, etc.). While our estimate of 2022 GDP would consider the impacts of COVID-19 and related restrictions, it may not fully reflect the economic reality for the impacted businesses during the period of restrictions;
- (f) While our estimate of the daily 2022 GDP for Ottawa would consider impacts of COVID-19 and related restrictions, utilizing estimated GDP as the starting point of our calculations does not necessarily reflect the economic status of the businesses during the 'but for' restriction period;
- (g) Some businesses may be able to subsequently mitigate a portion of their losses; and,
- (h) Some businesses did not suffer losses and some businesses benefitted from the Protests (for example: due to the influx of protestors, food service or retail services may have experienced an increase in business). These businesses should be, and I believe are, excluded from consideration of overall losses.

53. Based on the foregoing factors, I view the 50% adjustment factor likely understates the potential losses. Utilizing a conservative estimate is reasonable given that the businesses were

operating during a period where COVID-19 restrictions existed and thus their revenues would be expected to have been lower than normal ‘but for’ the Protests.

54. Multiplying the 50% factor for the estimate of the percentage of daily private sector GDP that was lost by the Ottawa private sector daily GDP that was negatively impacted by the Protests results in the estimated daily private sector GDP lost due to the Protests ranging from \$8.4 million to \$11.6 million²³.

Number of Days of the Protests

55. I have assumed a period of loss of 23 days reflecting the commencement of the Protests on January 29, 2022 and continuing until February 20, 2022 when police cleared the main protest area.

56. Multiplying the number of days of the Protests by the loss of daily private sector GDP due to the Protests results in the estimated total loss of GDP ranging from \$194.1 million to \$267.4 million

²³ We note that the Rideau Centre has publicly disclosed that they have suffered losses of approximately \$2 million per day. Thus, the Rideau Centre revenue losses would represent approximately 17% (on the high-end) and 24% (on the low-end) of our estimate of daily loss of GDP resulting from the Protest.

Estimated Losses to the Employee Sub-Class

57. I have estimated the losses to the Employee Sub-Class by determining the percentage of annual GDP that pertains to compensation of employees (includes wages & salaries and employer's social contributions).

58. As such, I have determined that labour costs as a percentage of GDP is approximately 54% as outlined in Table 4.

Description	Amount
Total gross domestic product at market prices (Ontario) - 2020 (\$millions)	\$ 866,939
Labour	
Wages and salaries	410,027
Employers' social contributions	62,049
Total compensation of employees	472,076
Labour as a % of GDP	54%

Table 4 – Calculation of Labour as a percentage of GDP

59. It is important to note that the estimated labour losses will be considered either losses to the Employee Sub-class (if employees did not work and were not paid) or the Business Sub-Class (if employees did go into work and were paid but the business was unable to recuperate the wages expense through revenues).

60. Assuming all 54% of labour costs represents the Employee Sub-Class, I calculate total wage losses ranging from \$105.7 million to \$145.6 million.

Estimated Losses to the Business Sub-Class

61. I have estimated the losses to the Business Sub-Class by determining the percentage of annual GDP that pertains to profits (net operating surplus: corporations and net mixed income of unincorporated entities).

62. As such, I have determined that profits as a percentage of GDP is approximately 23% as outlined in Table 5.

Description	Amount
Total gross domestic product at market prices (Ontario) - 2020 (\$millions)	\$ 866,939
Profit	
Net operating surplus: corporations	123,091
Net mixed income	75,691
Total profit	198,782
Profit as a % of GDP	23%

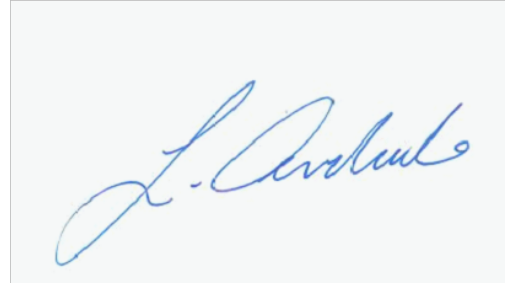
Table 5 – Calculation of Profit as a percentage of GDP

63. The estimation of business losses based on profits only is a conservative approach as it does not consider fixed continuing expenses that businesses would have incurred during the period of loss. Normally, a calculation of damages pertaining to business losses would be based on contribution margin (net profits and fixed continuing expenses). My calculations of the business losses are based on the net profit component only as data regarding the percentage of continuing fixed expenses of the impacted businesses is not available.

64. Multiplying the profit percentage of 23% by the total loss of GDP, I calculate losses for the Business Sub-Class ranging from \$44.5 million to \$61.3 million.

SWORN (or Affirmed) remotely by *video conference* by Larry Andrade of the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on February 25, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

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Commissioner for Taking Affidavits
Paul-Erik Veel

(signature of deponent)
LARRY ANDRADE
(electronically signed)

This is Exhibit “A” referred to in the Affidavit of LARRY ANDRADE
sworn February 25, 2022.

Commissioner for Taking Affidavits (or as may be)

Paul-Erik Veel

Exhibit A – Curriculum Vitae - Larry Andrade



Larry Andrade, FCPA, FCA, CBV, CFF, CFE, MBA

Partner, Dispute Advisory Services/Financial Advisory Services
Deloitte LLP
Toronto, Ontario
Office phone: 416-643-8989
Email: laandrade@deloitte.ca

Profile & Experience

Larry is a Partner in our Financial Advisory group and is the leader of Deloitte's National Disputes practice.

Larry has approximately 20 years of experience in the areas of damages economic loss quantification, business valuation and forensic accounting investigations, involving large multi-national organizations and the public sector in North America and internationally.

Larry has completed and signed numerous expert reports and submitted evidence that have been accepted by various Canadian courts and tribunals on a variety of matters, including the quantification of economic losses, business valuation and forensic accounting and fraud investigations. Larry has been qualified as an expert in the Ontario Superior Court, international arbitrations, private arbitrations, the Patented Medicine Pricing Review Board and other tribunals.

Larry is and has been an instructor in both the undergraduate and graduate business administration programs at the Schulich School of Business at York University and at the University of Toronto, where he lectures on financial, management and forensic accounting as well as valuations and the quantification of economic losses. He has also given, and regularly provides, numerous presentations to various law firms, industry groups and conferences.

Larry obtained his Master of Business Administration (MBA) degree from the Schulich School of Business in 2002. He is a member of various professional organizations including the Institute of Chartered Accountants of Ontario, the Canadian Institute of Chartered Business Valuators, the Associates of Certified Fraud Examiners, and the Association of Certified Forensic Investigators of Canada.

Larry is the Treasurer and sits on the Board of various not-for-profit organizations, including a large organization that with the assistance of the Ontario Ministry of Community and Social Services, develops and operates a number of group homes and day programs in Ontario for adults with autism and other mental disabilities.

Education and Professional certifications / affiliations.

- CPA Ontario Fellow (2021)

- Chartered Professional Accountant (2012)
- Chartered Accountant, Institute of Chartered Accountants of Ontario, (1999)
- Chartered Business Valuator, Canadian Institute of Chartered Business Valuators (2002)
- Master of Business Administration, Schulich School of Business (2002)
- Certified Fraud Examiner, Association of Certified Fraud Examiners (2004)
- Certified Specialist in Investigative and Forensic Accounting, CICA (2010)
- Certified in Financial Forensics (2015)
- Part-time Instructor in the areas of Financial and Management Accounting, Schulich School of Business (both undergraduate and graduate programs), York University (1999 to Present)
- Associate Professor in the areas of Financial and Management Accounting, University of Toronto (2002 to 2005)
- Treasurer and Board Member of VITA Community Living Services & Mens Sana Families for Mental Health (part of Villa Charities Group)
- Financial Representative on Allocations Panel at the United Way (Toronto)

Presentations

- Damages Assessments in International Arbitrations, Canadian International Arbitration Conference (2020)
- Financial Statement Analysis and Improving Overall Financial Acumen, Presented to National Sales Team of Weston Foods (2019)
- Economic Loss Quantification & Business Valuation, Lerner LLP (2019)
- Valuation and Pricing in the Context of M&A Transactions, Cassels Brock (2019)
- Valuation and Pricing in the Context of M&A Transactions, Miller Thomson LLP (2018)
- Damages Issues in Class Action Litigations; Canadian Institute of Chartered Business Valuators Conference in Ottawa (2018)
- Big Data Litigation – Relevant Issues; Canadian Institute of Chartered Business Valuators Conference in Ottawa (2018)
- MBA in a Day; Financial Statement Analysis, Ontario Bar Association (2018)
- Complex Accounting Matters; Cassels Brock (2018)
- Financial Statement Analysis and Intro to Valuations; Blaney McMurtry (2018)
- Financial Statement Analysis; Norton Rose (2017)
- Financial Due Diligence and Investigations of Gaming Suppliers; AGCO (2015)
- Economic Loss Quantification; Goodmans LLP (2015)

- Identifying Fraud and Financial Statement Manipulation; British Columbia Institute of Chartered Accountants (2015)
- Issues in the Assessment of Economic Damages; Davis LLP (2014)
- Identifying Fraud and Financial Statement Manipulation, Quebec Institute of Chartered Accountants (2013)
- The Role of the CBV in Resolving Damages Disputes, CICBV National Conference (2013)
- Issues in the Assessment of Economic Damages; McMillan LLP (2013)
- Issues in the Assessment of Economic Damages; Lenczner Slaght Royce Smith Griffin LLP (2012)
- Issues in the Assessment of Economic Damages; Davis & Company (2012)
- Identifying Fraud and Financial Statement Manipulation; Caribbean Institute of Chartered Accountants (2011)
- Financial Statement Fraud & Risk Factors; Manitoba & Saskatchewan Institute of Chartered Accountants (2011)
- Financial Statement Fraud & Risk Factors; BC Institute of Chartered Accountants (2010)
- Damages and Accounting for Profits in Intellectual Property Disputes; Gowlings LLP litigation Group (2010)
- Damages and Accounting for Profits in Intellectual Property Disputes; MacMillian Binch LLP litigation group (2009)
- Risk Management Seminar; British Columbia Institute of Chartered Accountants (2009, 2007, and 2005)
- Quantification of damages and Business Valuation, Borden Ladner LLP litigation group (2009)
- Intellectual Property Litigation and Damages; Gowlings LLP litigation group (2008)
- Risk Management Seminar; AICA Services Inc. for Ontario Chartered Accountants (2005)
- Understanding Financial Statements & Financial Statement Analysis; various law firms (2003 to present)

Language skills

- English
- Portuguese

This is Exhibit “B” referred to in the Affidavit of LARRY ANDRADE
sworn February 25, 2022.

Commissioner for Taking Affidavits (or as may be)

Paul-Erik Veel

Exhibit B – Acknowledgment of Expert’s Duty

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

ZEXI LI, HAPPY GOAT COFFEE COMPANY INC, 7983794 CANADA INC.
(c.o.b. as UNION: LOCAL 613) and GEOFFREY DEVANEY

Plaintiff

- and -

CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING,
JAMES BAUDER, BRIGITTE BELTON, DANIEL BULFORD, DALE ENNS,
CHAD EROS, CHRIS GARRAH, MIRANDA GASIOR, JOE JANSEN, JASON
LAFACE, TOM MARAZZO, RYAN MIHILEWICZ, SEAN TIESSEN,
NICHOLAS ST. LOUIS (a,k,a, @NOBODYCARIBOU), FREEDOM 2022
HUMAN RIGHTS AND FREEDOMS, JOHN DOE 1, JOHN DOE 2, JOHN
DOE 3, JOHN DOE 4, JOHN DOE 5, JOHN DOE 6, JOHN DOE 7, JOHN DOE
8, JOHN DOE 9, JOHN DOE 10, JOHN DOE 11, JOHN DOE 12, JOHN DOE
13, JOHN DOE 14, JOHN DOE 15, JOHN DOE 16, JOHN DOE 17, JOHN DOE
18, JOHN DOE 19, JOHN DOE 20, JOHN DOE 21, JOHN DOE 22, JOHN DOE
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53, JOHN DOE 54, JOHN DOE 55, JOHN DOE 56, JOHN DOE 57, JOHN DOE
58, JOHN DOE 59, JOHN DOE 60, JANE DOE 1 and JANE DOE 2

Defendants

ACKNOWLEDGMENT OF EXPERT'S DUTY (FORM 53)
OF LARRY ANDRADE

1. My name is Larry Andrade. I live in the city of Toronto, in the province of Ontario, Canada.
2. I have been engaged by or on behalf of Lenczner Slaght to provide evidence in relation to the above-noted court proceeding.
3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:

- (a) to provide opinion evidence that is fair, objective and non-partisan;
- (b) to provide opinion evidence that is related only to matters that are within my area of expertise; and
- (c) to provide such additional assistance as the Court may reasonably require, to determine a matter in issue.

4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date February 25, 2022



Signature

NOTE: This form must be attached to any expert report under subrules 53.03(1) or (2) and any opinion evidence provided by an expert witness on a motion or application.

ZEXI LI et al

Plaintiffs

-and-

CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH,
PATRICK KING and JOHN DOES 1-60
Defendants

Court File No. CV-22-00088514-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT OTTAWA

Proceedings under the *Class Proceedings Act*, 1992

ACKNOWLEDGMENT OF EXPERT'S DUTY

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Acting as Agent to Champ & Associates, Counsel for the Plaintiffs,
Zexi Li, Happy Goat Coffee Company Inc, 7983794 Canada Inc.
(c.o.b. as Union: Local 613) and Geoffrey Devaney

This is Exhibit “C” referred to in the Affidavit of LARRY ANDRADE
sworn February 25, 2022.

Commissioner for Taking Affidavits (or as may be)

Paul-Erik Veel

Exhibit C – Preliminary High-Level Estimate of Damages Based on Publicly Available Information

Ottawa Convoy

Schedule 1

Damages Quantification - Ottawa Convoy Protest Class Action

Period of Loss: January 29 to February 20, 2022

Preliminary Estimate of Damages Based on Publicly Available Information

A Description	B Notes	C Low	D High	E Formula
1 Estimated losses, measured as the loss of GDP (Ottawa areas impacted by protest):				
2 Estimate of Ottawa private sector daily GDP for 2022	[1]	\$ 190,550,498	\$ 190,550,498	a
3 Estimate of % of Ottawa businesses negatively impacted by the Protests (Loss of revenue)	[2]	8.9%	12.2%	b
4 Ottawa private sector daily GDP potentially negatively impacted by the Protests		16,875,636	23,253,588	c=a*b
5 Estimate of % of daily private sector GDP (revenue) lost by businesses negatively impacted by the Prc	[3]	50.0%	50.0%	d
6 Loss of daily private sector GDP (revenue) due to Protests		8,437,818	11,626,794	e=c*d
7 Number of days of the Protests	[4]	23	23	f
8 Total loss of private sector GDP (revenue):		194,069,810	267,416,266	g=e*f
9				
10 Estimated Losses to the <u>Employee</u> Sub-Class:				
11 Labour as a % of GDP (revenue)	[5]	54%	54%	h
12 Total Employee Sub-Class Loss:		105,677,215	145,616,706	i=g*h
13				
14 Estimated Losses to the <u>Business</u> Sub-Class:				
15 Profit as a % of GDP (revenue)	[6]	23%	23%	j
16 Total Business Sub-Class Loss:		44,498,615	61,316,356	k=g*j
17				
18 Total Losses to Employee & Business Sub-Classes:		\$ 150,175,831	\$ 206,933,061	l=i+k
19 Total Losses to Employee & Business Sub-Classes (Rounded):		\$ 150,000,000	\$ 210,000,000	

Ottawa Convoy**Schedule 1****Damages Quantification - Ottawa Convoy Protest Class Action****Period of Loss: January 29 to February 20, 2022****Preliminary Estimate of Damages Based on Publicly Available Information****Notes:****[1]** Estimate of Ottawa private sector daily GDP for 2022 is calculated as follows:

- (1) We have utilized the 2018 GDP for Ottawa per Statistics Canada (the most recent year of available data) expressed in nominal terms.
- (2) We have applied the Ontario annual GDP growth rates for 2019 and 2020 to the 2018 Ottawa GDP to estimate Ottawa's GDP in those respective years.
- (3) To forecast Ottawa's 2021 and 2022 GDP, we have relied upon the nominal GDP growth rates per the Ontario Economic Forecast published by TD Economics.
- (4) We have calculated the daily GDP by dividing the annual GDP by 365 days.
- (5) We have calculated the share of the private sector GDP in Ontario (in 2018 based on nominal GDP by industry) to be 83.1%.
- (6) We have applied the estimate of private sector GDP to the total estimate daily GDP to estimate the private sector daily GDP.

Description	2018	2019	2020	2021	2022
GDP per Stats Canada ¹	\$ 70,086,000,000				
Growth Rate ^{2,3}		3.7%	(2.8%)	9.7%	8.0%
Estimated GDP		\$ 72,703,477,063	\$ 70,643,034,842	\$ 77,495,409,222	\$ 83,695,041,960
Daily Estimated GDP		\$ 199,187,608	\$ 193,013,756	\$ 212,316,190	\$ 229,301,485
Estimate of Private Sector GDP ⁴					83.1%
Estimate of Private Sector Daily GDP					<u>\$ 190,550,498</u>

¹**Source:** Statistics Canada - Gross domestic product (GDP) at basic prices, by census metropolitan area (CMA) (x 1,000,000)²**Source:** Statistics Canada - Gross domestic product, income-based, provincial and territorial, annual (x 1,000,000)³**Source:** TD Economics - Ontario Economic Forecasts⁴**Source:** Statistics Canada. Table 36-10-0478-01 Supply and use tables, detail level, provincial and territorial (x 1,000)

Ottawa Convoy**Schedule 1****Damages Quantification - Ottawa Convoy Protest Class Action****Period of Loss: January 29 to February 20, 2022****Preliminary Estimate of Damages Based on Publicly Available Information****[2] Estimate of % of Ottawa businesses negatively impacted by the Protests (Loss of revenue) was calculated as follows: _**

To estimate the percentage of Ottawa businesses within the Occupation Zone that were potentially negatively impacted by the Protests, we have relied upon the Ottawa BIA Business Survey - Convoy Protest Impacts prepared by the Ottawa Coalition of Business Improvement Areas ("OCOBIA"). The survey was sent to members of the various BIAs that were expected to have been impacted by the Protests. We understand the OCOBIA consists of 6,700 businesses and they believe that 1,073 of those businesses were directly impacted by the Protests in the form of lost revenues. We also understand that the OCOBIA represents approximately 70% of the businesses in the region impacted by the Protests. We have assumed that the OCOBIA membership and impacted businesses are representative of Ottawa businesses as a whole. The low end of the range represents the survey results from businesses that indicate they are unable to mitigate revenue losses and the high end of the range represents the survey results from businesses that state they have suffered a loss of revenue as a result of the Protests.

Description	Low	High	Formula
Number of Businesses represented by the OCOBIA (assumed to be representative of Ottawa as a whole) *	6,700	6,700	<i>a</i>
# of Businesses Potentially Impacted by the Protests **	1,073	1,073	<i>b</i>
% of Businesses Potentially Impacted by the Protests	16.0%	16.0%	$c=b/a$
% of Businesses That Suffered Revenue Losses - Per survey results ***	55.3%	76.2%	<i>d</i>
% of Ottawa Businesses Potentially Negatively Impacted by the Protests	8.9%	12.2%	$e=c*d$

* Based on conversations with a representative of the OCOBIA, there are now 6,700 businesses represented by the various BIAs in Ottawa.

** Of the total number of surveys issued, 1,073 surveys were issued to the five BIAs that account for the Occupation Zone (Bank Street, Downtown Rideau, Byward Market, Sparks Street and Somerset Street) and that the OCOBIA believes were negatively impacted by the protests.

*** Per the BIA Survey, 55.3% of respondents reported they will not be able to recover or postpone the revenues lost during the protest. 76.2% of respondents reported lost revenue directly because of the Protests.

Source: OCOBIA - Ottawa BIA Business Survey - Convoy Protest Impacts

- [3]** We have judgmentally applied a factor of 50% to estimate the lost daily GDP (revenues) suffered by the businesses impacted by the Protests. We believe this estimate to be conservative given the survey results which indicate that more than 50% of the impacted businesses were fully closed throughout the protests and that the Rideau Centre has publicly disclosed that they were closed and that their businesses lost revenue of \$2 million per day. However, we believe a conservative estimate is reasonable given that the businesses were operating during a period where COVID-19 restrictions existed and thus their revenues would be expected to have been lower than normal but for the protests. See affidavit for additional support and rationale for factor selected.
- [4]** The Protests officially commenced on January 29, 2022. We have extended the period of loss to February 20, 2022 (a period of 23 days). Should it be determined that the period of loss extended beyond February 20, 2022, our calculations would require revision.

Ottawa Convoy**Schedule 1****Damages Quantification - Ottawa Convoy Protest Class Action****Period of Loss: January 29 to February 20, 2022****Preliminary Estimate of Damages Based on Publicly Available Information****[5] Estimated Losses to the Employee Sub-Class were calculated as follows:**

We have estimated the losses to the Employee Sub-Class by determining the percentage of annual GDP that pertains to compensation of employees (includes wages & Salaries and employer's social contributions). It is important to note that the estimated labour losses will be considered either losses to the Employee Sub-class (if employees did not work and were not paid) or the Business Sub-Class (if employees did go into work and were paid but the business was unable to recuperate the wages expense through revenues).

Description	Amount	Notes
Total gross domestic product at market prices (Ontario) - 2020 (\$millions)	\$ 866,939	<i>a</i>
Labour as a % of GDP:		
Wages and salaries	410,027	<i>b</i>
Employers' social contributions	62,049	<i>c</i>
Total compensation of employees	472,076	<i>d=b+c</i>
Labour as a % of GDP	54%	<i>e=d/a</i>

Source: Statistics Canada - Gross domestic product, income-based, provincial and territorial, annual (x 1,000,000)

[6] Estimated Losses to the Business Sub-Class were calculated as follows:

We have estimated the losses to the Business Sub-Class by determining the percentage of annual GDP that pertains to profits (net operating surplus: corporations and net mixed income of unincorporated entities). The estimation of business losses based on profits only is a conservative approach as it does not consider fixed continuing expenses that businesses would have incurred during the period of loss and that would normally be considered in a damages analysis through the use of "contribution margin" as opposed to "profit margin".

Description	Amount	Notes
Total gross domestic product at market prices (Ontario) - 2020 (\$millions)	\$ 866,939	<i>a</i>
Profit		
Net operating surplus: corporations	123,091	<i>b</i>
Net mixed income	75,691	<i>c</i>
Total profit	198,782	<i>d=b+c</i>
Profit as a % of GDP	23%	<i>e=d/a</i>

Source: Statistics Canada - Gross domestic product, income-based, provincial and territorial, annual (x 1,000,000)

ZEXI LI	v. CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING and JOHN DOES 1 to 60
Plaintiff (Moving Party)	Defendants (Responding Parties)

	ONTARIO SUPERIOR COURT OF JUSTICE Proceeding commenced at Toronto
	AFFIDAVIT OF LARRY ANDRADE SWORN February 25, 2022
	CHAMP & ASSOCIATES Equity Chambers 43 Florence Street Ottawa, ON K2P 0W6 Tel.: (613) 237-4740 Fax: (613) 232-2680 Per: Paul Champ LSUC #: 45305K Email: pchamp@champlaw.ca Solicitors for the Plaintiff